

**UNITED STATES OF AMERICA,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** ) **Case No. 4:14CR00088RWS/SPM**  
 )  
 **TIMOTHY RUSH,** )  
 )  
 **Defendant.** )

COMES NOW Defendant Timothy Rush, by and through counsel, and moves this Court pursuant to 18 U.S.C. § 3145(b) to (i) reconsider the detention order and (ii) admit Rush to bail on a combination of conditions of release that will reasonably assure his appearance at trial and the safety of the community or any other person. In the alternative, Defendant Rush requests a hearing at which he may present argument as to available conditions of release that will accomplish the same end. In support of this motion, Defendant states:

2. As the Eighth Circuit has noted:

*United States v. Orta*, 760 F.2d 887, 890 (8th Cir. 1985) (emphasis added)

3. Consistent with the intent of Congress, the Act encourages release of the accused pending trial provided some condition or combination of conditions can reasonably assure the appearance of the accused at trial and the safety of the community or any other person. *Id.* at 890-91.

4. Doubts regarding the propriety of release should be resolved in favor of the accused. See *United States v. Townsend*, 897 F.2d 989, 994 (9th Cir. 1990).

5. Defendant has been ordered detained since March 27, 2014. (ECF Doc. #41)

6. Though this case has been designated complex, Defendant has been detained close to a year and a half without the opportunity for hearings on his motions to go forward.

7. On July 17, 2015, a Superseding Indictment was returned charging Defendant Rush with essentially the same charges from the original Information and Indictment. More serious charges that carry the potential for the death penalty were issued against Defendants Gatling and Andre Rush.

8. Additional discovery concerning the Superseding Indictment must be released by the Government by August 19, 2015. After Defendants requested additional time to review discovery, the Court granted an additional 90 days to review same. A scheduling conference has been scheduled for November 4, 2015 to discuss the setting of motion hearings or the need for additional time for discovery review. (ECF Doc. #194)

9. With motion hearings not even scheduled as of yet, it is possible that Defendant Rush could be detained *at least* another 6 months and possibly substantially longer with two co-Defendants facing murder charges.

10. Defendant Rush is amenable to any combination of alternatives to incarceration including home confinement, electronic monitoring, and drug treatment that would be less intrusive means of ensuring safety to the community and quell concerns about flight risk.

11. Further, being out on bond would give Defendant a better opportunity to review discovery which to date has been extremely difficult.

WHEREFORE, Defendant Rush respectfully requests this Honorable Court admit him to bond on a combination of conditions of release or, in the alternative, schedule a hearing at which he may present argument as to available conditions of release that will reasonably assure his attendance at trial and the safety of the community or any other person.

Respectfully submitted,

By: /s/ Preston Humphrey, Jr.  
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#### CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was filed electronically on the 22<sup>nd</sup> day of June, 2015 with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Dean Hoag, Assistant United States Attorney, 111 South 10<sup>th</sup> Street, St. Louis, MO 63102 and all counsel of record.

/s/ Preston Humphrey, Jr.